

THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF APRIL 27, 1989

MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a Special Meeting on Thursday, April 27, 1989 at 7:00 p.m. at the Old Whaling Church Basement, Main Street, Edgartown, MA.

Mr. Early, Chairman, opened the Special Meeting, welcomed the members of the Edgartown Planning Board and asked if they would like to begin.

Mr. Walter Delaruso, Edgartown Planning Board, stated that between 1984-1987 there was rapid growth in this B-2 area, in the Spring of '87 an Island-wide DCPC for the business districts was being considered, shortly after that we received grant funding and hired Dodson Associates to develop a master plan for the B-2 district. The MVC was introduced to this plan 4 months ago, given a presentation by Mr. Dodson and shown concept drawing. He referred Commissioners to packets distributed to them tonight and stated that the concept drawings are in these packets. He addressed the concerns of the area including traffic, mixed pedestrian and automobile flow, lack of landscaping, and visual effects. He stated that they are afraid to continue with conventional development in this area, it is scattered and inconsistent planning. We hope to address the traffic issues by connected the rear accesses in places to change the direction of the flow and provide a better route. This plan was to be brought to Town Meeting floor but we decided we needed to incorporate more flexibility, get input from the B-2 business and residents. We want to maintain the small town atmosphere that exists now. The real change in this plan is that everything would require a special permit and therefore allow more control. For instance, we have over 100 curb cuts here, that is one problem we hope to address. We wanted to present this to the Commission to get your input, constructive criticism, etc. We plan to bring this to the floor at a special Town Meeting in June and we will be meeting with Mr. Bobrowski tomorrow to discuss the rewriting of the zoning by-laws, we are 99% there now and will iron out the remaining problems with the B-2 business people and residents. We think this warrants the Commission's participation and ask for help, particularly in the statistics department. If there are any questions the Board members will be happy to answer them.

Mr. Jason, Commissioner, asked is the position you are taking with this plan that this is what you would like to see or that this is what you plan to do? Mr. Delaruso responded that referring to the concept drawings, the third drawing is what we don't want to happen, it shows

construction that doesn't lend well to the area. The idea is not to move the business district from downtown to uptown but it does seem that the majority of year-round businesses are going there. The concept plan evolves around that idea but not with the conventional development, i.e. parking in the front, lack of screening, numerous curb cuts, etc. He went on to state that concerning the idea of a shuttle at the golf course, if it is well planned in a well wooded area it would be well screened. We hope to eliminate some of the curb cuts and add roads for access but we don't want to upset any residents in the area, this is just a concept drawing and can be changed through constructive criticism.

Mr. Ewing, Commissioner, asked about the land use planning and the desire to preserve open space, possibly through the transfer of development rights, have you developed a plan? Mr. Delaruso responded that is one reason we didn't present the zoning changes. We think we need to be more flexible, almost on a point system, if someone does something that is beneficial to the town, i.e. landscaping, reducing curb cuts, what can the town then do in return for the landowner. This is something we hope to work out with Mr. Bobrowski, we have seen it work well in other towns. Mr. Ewing asked, suppose you have a resident that doesn't want to convert to a business, could they stay and receive some benefits, i.e. not being taxed at the business rate? There was some discussion and statements that the tax rates are the same for businesses and residences in the zone.

Mr. Peter Vincent, Chairman of the Edgartown Planning Board, stated that is was his understanding that this meeting was for the Commission to get back to us on the previous presentation made 4 months ago. Mr. Vincent stated that they want to get input from the Commission on this plan, specifically how it fits into the Regional Master Plan's goals with respect to setbacks, rear parking lots, etc.

Mr. Ewing stated that he has specific questions regarding the access/egress to the parking at the golf course. Mr. Vincent stated that they envision this as part of the Commission's regional traffic system. Mr. Ewing asked where the egress would be located, at the triangle? The response was yes and interconnecting with access roads.

Mr. Young, Commissioner, asked, so you are looking for input on how this fits in with the Regional Master Plan? Mr. Vincent responded yes, we are almost finished and it is almost time to bring it to the Town Meeting floor. Mr. Young responded that concerning the state of the Regional Master Plan, it is still in the hands of the Task Forces, it is not a coherent plan the MVC has reviewed or endorsed. Perhaps you should be discussing this with the Task Forces. Mr. Vincent stated that their concern is that they don't want to implement the whole thing with zoning changes and then find out that it doesn't agree with what your Commission wants.

Mr. Mark Adams, MVC Staff, added that the Task Forces are now winding up their work and that the Comprehensive Planning Advisory Committee is preparing a recommendation for the Commission. Regarding any

possible conflicts between Edgartown's B-2 Master Plan and the Commission's Regional Master Plan, the regional plan incorporates any and all town plans ever produced or endorsed that they want incorporated so I envision no problems. The individual town plans will have to be intermeshed and some towns might not want this level of planning but I do not anticipate any direct conflict between the two Master Plans.

Ms. Sibley, Commissioner, stated that, in her opinion, this plan is far in advance of anything any other town has done. It is fantastic what you've done here and you may set an example for other towns, although they might not choose to develop as you have since each town has a different character that it wants to maintain. I am impressed with the clear thought put into this plan. I like the idea of moving the buildings closer to the street and putting the parking in the rear to maintain the small town type development. Mr. Vincent asked Ms. Sibley how she feels about the access roads? Ms. Sibley responded that it boggles her mind how this will be implemented. Mr. Vincent stated that is why there is a need for the "carrot" plan. We originally looked at this as a 30 year implementation although we now feel it is possible to implement it in approximately 20 years. Ms. Sibley stated it would be nice if you could make it up Main Street and lose that obstacle course experience and this could be done if the access on the back roads works the way it is supposed to work.

Mr. Ewing asked, specifically are we talking about Pine Hurst Road, Court Lane, or behind the buildings themselves? Mr. Vincent responded behind the buildings themselves, the buildings could then be connected to allow you to go from store to store without needing access onto Main Street. Mr. Ewing stated that he could envision this in short spurts but what about the residences in the area? Mr. Vincent responded that there are few residences in the areas designated for these access roads. Mr. Ewing stated that the logistics of the plan are very good and may well deal with alleviating the current problems but how will it deal with future growth? I am concerned with the density of the area and multiple uses on individual lots scares me, what is your policy on that? Mr. Vincent responded that this would be discussed in our talks on Friday, we will probably implement some sort of system that will base the percentage of sq. ft. you can develop on how well they comply with the Master Plan, if it is the only way to get full build out I think it will work well. Mr. Ewing then asked about the fact that as the area is developed it will undoubtedly draw more people? Mr. Vincent responded that all development would be by special permit not just a matter of course and they will have to comply with the Master Plan and this will alleviate the problems. Mr. Ewing asked but will it allow for growth? Mr. Vincent responded yes, this is an established business area. Mr. Ewing asked about the upcoming expansion of the Edgartown A&P, I see the best case scenario being to bring the A&P right to the road, is this possible, have there been preliminary discussions? Mr. Vincent responded yes, there have been preliminary discussions and the problem here is the slope of the land, it slopes down in the front and this would create either a 2 level shopping area that is inappropriate for carriages, etc., or a

building were the front would have to be almost underground to keep the floor area level. There has been discussion about landscaping the front of the lot, expanding on the sides and putting parking in the back and sides.

Ms. Borer asked in regard to the access roads behind the buildings, is this area hooked up to the sewer system? Mr. Vincent responded that the sewer system runs as far as the Edgartown Texaco station and that a pump station would be required to go further, this is in their future plans but it is not within their budget at this time. Ms. Borer then asked if this future plan is consistent with future plans of the Sewer Commission and if the Board of Health has any concerns with the implementation of this plan before the sewer system is hooked up to this area? Mr. Vincent responded yes, they would have to implement it case by case. He went on to state that the upper area in the Lily Pond Well zone of contribution was almost fully developed now and that they plan meetings and public hearings on these plans. Ms. Borer asked about the configuration of the access road on the side of the A&P? Mr. Vincent responded that the zoning changes to follow the property lines, which are not straight, we may try to straighten these property lines.

Ms. Colebrook, Commissioner, asked about the mechanisms for enforcing these regulations in a transfer of ownership? Mr. Vincent stated that these regulations would not be relevant in simple transfer of ownership, only if the new use would be more intensive than the previous use.

Ms. Sibley asked on the same line, how would you determine if a use was more intense? Mr. Vincent stated it would be based on traffic generation, parking needs, septage flow, etc. Ms. Sibley stated this makes sense but how would you determine these figures? Mr. Vincent stated they hope to work this out Friday also.

Ms. Scott, Commissioner, asked who has the power to grant permits? Mr. Vincent responded if it is a simple transfer of ownership and there is no increase in the intensity of use, then the building official could issue a permit, if a special permit is required then it would be the Planning Board.

Mr. Early asked what the Planning Board envisions as their largest stumbling block, what can the Commission do? Mr. Vincent responded the golf course and discussion of its use as a transportation center. There has been some favorable discussion. If 50% of the cars can be stopped here then traffic would be alleviated. Mr. Early stated that this plan is impressive and some of this area has come before the Commission as DRIs. What would happen with the proposed access if some owners didn't participate? Mr. Vincent responded that is why we anticipated a 30 year projected completion, we will have to hold some areas until we can connect them.

Mr. Young stated that he personally prefers small hamlet business areas particularly with nucleuses such as banks, post offices, supermarkets, to keep the necessary day to day traffic out of the

business districts, like this one. I echo the dangers that Steve Ewing eluded to, by trying to accommodate the existing problems you may be providing an avenue that would encourage further development and thereby create more problems. When the nomination of the business districts was considered a year and a half ago there was discussion of providing parallel roadways to divert the shopping traffic off the main thoroughfares, this has been done nicely here. As far as commercial development that comes to the Commission in the form of DRIs, many of the things I see in this plan are relevant to the way we review DRIs, i.e. directing traffic to the rear, shading parking areas, etc. You have done an excellent job and it is very much in keeping with the way the Commission reviews commercial DRIs.

Mr. Jason asked how the Commission can help? Mr. Vincent stated that by incorporating the goals of the Master Plan in its decision conditions it will help in the implementation of the plan, in addition the special permit process will go a long way too. Mr. Jason asked if the Planning Board has the right to impose conditions in its special permit process? The response was yes.

Mr. Young stated that the Regional Master Plan will look to follow this plan as your lead in reference to how the Regional Master Plan will be implemented in Edgartown. Don't worry about a possible conflict.

Mr. Ewing asked about the possible transfer of development rights as they relate to the Medeiros lot, an open field, they have no intention of developing the lot or intentions of doing anything commercial elsewhere in Edgartown, have you approached her? Mr. Vincent responded not in reference to this plan but I believe she was approached a few years ago. Mr. Ewing stated that he had approached her a few years ago and has been waiting for direction from the Conservation Commission or the Planning Board on how to proceed. Mr. Vincent asked if there was any response from Ms. Medeiros? Mr. Ewing responded yes, very favorable. Mr. Vincent suggested they get together to discuss this next Wednesday.

When there was no further discussion, Mr. Vincent thanked the Commission for their time.

The Martha's Vineyard Commission held a public hearing on Thursday, April 27, 1989 at 8:00 p.m. at the Old Whaling Church Basement, Main Street, Edgartown, MA pursuant to Section 8 of Chapter 831, Acts of 1977, as Amended, and Massachusetts General Law, Chapter 30A, Section 2, and the Standards and Criteria regarding designation of a District of Critical Planning Concern adopted by the Commission and approved on September 8, 1975 by the Secretary of Communities and Development, to hear testimony and receive evidence as to whether the Commission should designate specific geographic areas of land and waters of Martha's Vineyard as described below in the boundaries as a District of Critical Planning Concern.

Area accepted for Consideration of Designation:

All land and water in the Town of Edgartown, beginning at the intersection of the Atlantic Ocean and southwest bound of Herring Creek Road at mean low water, tax assessor map 53, northerly along the western bound of said road for 3,500 \pm feet to the intersection of Slough Cove Road, assessor map 44, thence westerly and northerly along Slough Cove Road to intersection of Meeting House Way, assessor map 37, thence westerly and northerly along the western bound of said way to the Edgartown - West Tisbury Road, assessor map 27, thence westerly along the southern bound of said road for 15,500 \pm feet to the Edgartown - West Tisbury town boundary, assessor map 25, thence southerly along said town boundary line for 13,250 \pm feet to the mean low water line of the Atlantic Ocean, thence following the shore at mean low water in an easterly direction for 22,000 \pm feet to the point of origin. The above area references assessor map numbers from the Town of Edgartown.

Mr. Ewing, Chairman of the Edgartown Ponds DCPC Committee, introduced himself as hearing officer, welcomed the public, read the Edgartown Ponds Public Hearing Notice, opened the hearing for testimony, described the order of the presentations and procedures for the hearing, and introduced Melissa Waterman, MVC Staff, to make her presentation.

Ms. Waterman began by explaining the maps on display: tax assessors map showing proposed and Coastal DCPC boundaries; topographic map; and overlay showing soil characteristics from the Soil Conservation Survey. She explained the color coding and significant points of interest on each map. She then passed around a series of photos showing different views of the ponds as a representation of the sceneries you see from the ponds. Ms. Waterman then reviewed staff notes (available in their entirety in the DRI file) asked if Commissioners had any questions, there were none.

Mr. Ewing called on Federal agency testimony, there was none. He then called on testimony from State agencies.

Mr. Gus Ben-David spoke for the Felix Neck Wildlife Sanctuary by stating that he wanted to make a correlation here; this entire area should be looked at like a friend. A friend gives amenities, i.e. trust, help, and then returns these things. For many, many generations this district has provided the Island with amenities and now it is a friend in need. I never thought that in my lifetime I would see Sengekontacket and Edgartown Great ponds closed to shellfishing, but they have been. There is an old saying that the only way to really love something is to realize that it may be lost, the only way to help this district is to realize that it may be lost. I would find it difficult to accept, and certainly hard to understand, anything but a unanimous decision by this governing body in relation to accepting this District of Critical Planning Concern.

Mr. Fisher, Commissioner, asked Mr. Ben-David what the reasons were for these pond closures? Mr. Ben-David responded the same as

elsewhere, coliform. Mr. Fisher asked what the cause was? The response was probably human contamination in the way of septage and possibly waterfowl populations.

When there were no further questions for Mr. Ben-David or further State agency testimony, Mr. Ewing called on town board testimony.

Ms. Edith Potter, Chairman of the Edgartown Board of Selectmen, opened by thanking the Commission for coming to Edgartown and stated that it makes it much easier for the public to attend these hearings. She added a 4th reason for nomination not mentioned earlier which is the preservation of a non-municipal well site that is providing municipal water. She went on to state that the ponds are one of the Island's great resources for shellfishing, wildlife, drinking water, and recreation. She stated that one of the reasons it has remained a valuable resource is that the landowners have exercised careful stewardship of this land, but that was many years ago and those days are gone now that the land is being broken up due to high land values and increased taxes and the developers are looking to maximize their profits with no consideration for the natural resources of the ponds. She cited James Cove and Oysta Pond as examples, when these lots are fully developed there will be side by side houses with lawns and fertilizer use in rows the length of the ponds and coves. Consider the visual and other impacts of this, do we want this around these ponds? There are other ways to develop this area such as cluster development. Creating open space that is large enough to ensure wildlife habitats. The MVC has the opportunity to create a program that could be an example to other towns with similar ponds on this Island. I believe this is important to the future quality of human and wildlife existence in the area. She pointed to the West Tisbury Flexible Zoning By-Laws as an innovative and practical way to achieve what they want to see in this district. She stated they don't know the full extent of the impact of development thus far and before they grant any more permits studies should be made, the DCPC gives time for studies. The developers may find that the value of his lots may increase with the guarantee that ponds will stay pristine. Since Edgartown has lost State funding to study the Great Pond we have been deeply concerned and in the future hope to vote to allow the \$33,000, set aside to match State funds, to be used to begin the studies. That way, when and if the State funding comes through, the studies will already be well underway. Bob Woodruff and others have recently done Tisbury Great Pond studies and these have a lot of relevance to this district. In the next year I would like to see the MVC make a concerted effort to find ways to protect the ponds. I was appalled to find that we can't restrict boating in Cape Pogue until we prove it is polluted. That is a fine example of closing the barn door after the horses have escaped. We need to know now what the potential threat in the future will be from swan, septic, etc. We need to know how to protect the public water supply, since Wintucket well will very likely become Edgartown's primary source of water. The MVC has a unique opportunity to do something constructive for the community and the whole Island. If we wait for the State it may be too late, we need to act now.

Mr. Fred Morgan, Member of the Edgartown Board of Selectmen, stated he wanted to echo Ms. Potter's comments. Often situations arise when we say why didn't we do something before now. Here is the opportunity to take the necessary steps to protect these fragile areas in the Town of Edgartown. This is a valuable asset to Town in the form of wildlife resources and even more valuable to the fishermen from a shellfishing standpoint. There are a number of private citizens that are interested in what goes on in the Town and have raised funds to study the harbor and have begun a harbor management study and hired an expert from the Woods Hole Oceanographic Institute. We hope this will flow over to the Cape Pogue area and all the other ponds in the general area. Tied in to this study should be Edgartown Great Ponds and the others listed in this DCPC. I hope the Commission votes to accept this DCPC and be in the position to stop the degradation before it gets too far.

Mr. Tom Durawa, Edgartown Board of Selectmen, stated that staff has described the area quite well and my colleagues have made the main arguments. I want to anticipate points the opposition might raise. The reason this has been taken for granted is because large landowners have protected or neglected it over the years. Landowners say that they are people of means and can protect their own interests, that they are conservationist. This may or may not be true, but what is true is that they are individuals as opposed to institutions. Fortunes change, owners of properties change, people come and go and we should look at the land as more permanent than the people who come and go. We can't continue to depend on individuals and their points of view. We need rules to protect the land that will extend for generations.

Ms. Christina Brown, Edgartown Conservation Commission, stated that they had sent a letter of written testimony but she wanted to say that they wholeheartedly support this designation. Mainly because of the help that the MVC will provide to us and the land. All of the reasons have been listed often but we don't have as much information or the broad based integrated study capabilities the MVC does. I hope you vote favorably.

When there were no other members of town boards to give testimony, Mr. Ewing called on public testimony.

Mr. Tom Wallace stated he wanted to speak as a landowner on the Great Pond, someone who has developed tracts on the ponds, and one of the orchestrators of the donations to the Sheriff's Meadow Foundation. I hold both Edo Potter and Tom Durawa in high respect but their comments about developers maximizing profits I take exception to. This might be the case in some instances but there have been times when profit has been second to protection of the area. Look back at the track record on any of these ponds being designated in regard to examples of pollution being pointed to as septic systems or lawns. I think it is very fair to state that West Tisbury Great Pond and Sengekontacket are areas of contaminations due to either old systems or otherwise unsound practices but I suggest that in this area property owners have a track record that needs to be commended. They continue to help, say for

example, the Flynn Farm. They have a good track record in regard to their long term care and consideration of the property and in my considered opinion they need some consideration for the efforts they have made to set an example. Perhaps their farm, and theirs alone, might be considered for exclusion.

Mr. Bob Gilkes, Secretary of the Edgartown's Fishermen's Association and Edgartown citizen, stated that the ponds are critical to him as his livelihood. He showed maps of resources from 1975 and stated that at that time they could reach their limit in 3 1/2 hours. In the 1987 season I only got 267 bushels. This is proof the ponds are in tough shape. There are problems in the ponds and we need to find out what they are and why the shellfish can't sustain themselves. We designed a machine that could dredge 5 bushels an hour by itself but we can't use it because the pond couldn't withstand that amount of harvesting. There is blue algae in the pond that is affecting the shellfish population. The pond needs help. He referred to Dr. Dana Kelly's studies of the ponds, specifically the Lily Pond Well recharge area that he had started to adapt to the Great Pond aquifer because he saw what was happening out there and thought with the cooperation of the landowners he could get some soil samples and that information could be correlated into the Lily Pond Well study. What happened in the Lily Pond Well, the municipal well was the recharge of rain water was not sufficient to keep the coastal well aquifer suitable for drinking. He tract salinity and drawdowns. The well field at Wintucket is going to be much greater than it is at Lily Pond and there should be information gathered on how groundwater and pond water will be correlated together in that corner of the cove. The EPA in July of '86 published a Septic System and Groundwater Protection Manager's Guide and Reference book which contained the recommendation of 60" per minute for soil percolation rates. Anything from 60-120" per minute or more have been given special criteria. In this DCPC below the 20' contour I would hope that considerations along these lines would be incorporated into the recommendations. He went on to state that their fishermen's association had sponsored Mary Dumbrowski to do her master's thesis studying the pond. Her report has been going through the computer to analyze the 340 samples she took during the opening cycle of the pond to give us a water transport system through the pond when it is open. She was trying to help the fisherman give the Shellfish Department a management scheme as to how the dynamics of the pond waters flow through the opening. A copy of this report has been earmarked for the Commission as well as the Shellfish Department and will be distributed when it becomes available. Basically what happens now is between the end of Swan Neck and Lyles Bay there is a geological land bridge and when the pond is opened there is about 3 feet of water over that landbridge. So in the opening cycle to increase salinity the pond, while the lower pond will change in about 48 hours it takes about 10 days for the salinity level to change in Janes Cove and even longer to get further up in the ponds. Basically the pond is not functioning as it has been in the past and the DCPC will be the tool to help implement a plan. Concerning the work done by the Flynn Farm and the Wallace developments, they have put together a great program but one landowner

can disturb a habitat, for instance, by changing an approved plan for a view channel and removing 20 trees, 5 pairs of blue heron have recently left the pond. Protection of this area is definitely warranted.

Ms. Colebrook asked about the stated decline in shellfish. What do you think are the reasons? Mr. Gilkes responded that they held a aquaculture license and in a sampling of 50 shellfish we found only 3 pieces of food. Without food in the pond you aren't going to have fisheries.

Ms. Bryant asked about the number of swan in the pond? Mr. Gilkes responded there are probably about 200 waterfowl in the pond. Three years ago there were over 30 pairs of swan. Ms. Bryant stated this might be part of the problem. How often is the pond opened? Mr. Gilkes responded that it depends on the rainfall.

Mr. Fisher asked what he thought about acid rain? Mr. Gilkes responded that the conductivity condition spikes right after the pond is opened. One of the causes might be percolation of nitrates, but if anything there is a nitrate deficiency probably caused by the blue algae feeding on the nitrates as fast as it flows in. The other thing I want to add is that when you see red/copper colored clay you can tell that is where the groundwater/pond water is mixing.

Mr. Ewing asked Mr. Gilkes if he could submit the documents he referenced in his testimony. Mr. Gilkes stated he would come to the Commission offices and submit copies.

Mr. Joe Sutton, Shellfish Constable for Edgartown, stated that the pond openings are based on several criteria: salinity, during oyster season you need salt to make the product marketable; spawning, you need salt for soft shell clams and oysters; but basically it depends on the pond level. The openings are based on fiscal year, July - June, this year we will have 3 openings, two to three years ago we have had as many as 6.

Ms. Colebrook asked if there were any notable changes in the shellfish populations when the pond was opened 6 times? Mr. Sutton responded that the most notable changes in shellfish populations came about 6-7 years ago when the fishing increased 4-5 times the previous year's level, the seasons were extended and the limits were raised. The increased fishing is depleting the pond and the growth is so slow that it has hindered efforts to bring it back. We need to allow the pond to recover and then implement a strict management plan to make this a viable fishery. Ms. Colebrook asked if there were any reactions when the pond was opened 6 times? Mr. Sutton responded with more frequent openings you get more salt and faster growth but you also have less recruitment during spawning season.

Ms. Bryant asked how long the pond is opened for? Mr. Sutton responded that it depends on Mother Nature, anywhere from 3-4 days to 4 weeks, generally it runs 1 1/2 - 2 weeks. If the surf is tranquil it stays open longer.

Mr. Ewing asked if the Shellfish Department had explored any other ways to maintain the salinity? Mr. Sutton stated that there have been discussions in general conversations but most possibilities are generally discounted due to expense, i.e. culverts to the ocean, backflow channels, etc. Mr. Ewing asked about the sluiceway that exists between Cratuxet Cove and Edgartown Great Pond that is maintained by a private landowner. Do you have any jurisdiction over that sluiceway? Mr. Sutton responded, yes. I can somewhat control the level of the pond with it. When the pond gets up about 2 feet, then you get water coming over here into the creek and I can open it to allow water to run out or leave it closed to get the pond level higher for a better flush out at the opening. Mr. Ewing then asked, I understand the maintenance and dredging are by the private landowner. Would it benefit the Town or your department if it were dredged or maintained better? Mr. Sutton responded, no. By allowing the sluiceway to flow, we would allow water with salinity to flow out and it would only be replaced with rainwater. Therefore the salinity of the pond would be lowered. We only use the sluiceway when the pond can't be opened.

Ms. Bryant stated she assumed that the purpose of the sluiceway is to maintain and control the pond level but I also thought that the reason was not only to control cellars overflowing but to control the septage. If this is needed to maintain septic conditions, then it is a good reason for needing this DCPC.

Charles Natalie, environmental consultant from HMM Associates testifying for Herring Creek Farm as landowners in the proposed DCPC, stated he wanted to offer some written testimony for the record and exhibits through the chair. For the record we are submitting a written Analysis of Need that we have prepared for the benefit of the Commission and the general public and 3 exhibits of aerial photographs taken by us in the month of April and I'll explain the content of substance of these photographs. At the outset I would like to say that Herring Creek Farm is as concerned about the environmental quality of Edgartown Great Pond as anyone in the audience tonight, but what we are more concerned about are the methods by which the Commission and the Town of Edgartown propose to protect the pond and the real means and practices that might offer that protection instead of a DCPC designation. We went through a process of reviewing the nomination papers and we also did a series of field reconnaissance surveys, site surveys, aerial surveys. We discussed the issues of the ponds with Town officials, Board of Health, Conservation Commission, and the Shellfish Warden. We also discussed a lot of the issues with MVC staff and we came to the conclusion that the focus of this DCPC is environmental protection of the Great Pond and barrier beaches along the South Shore, the natural resources of the ponds and the adjacent shoreline areas particularly the water quality, wildlife, visual character, etc. We examined the Selectmens stated needs for designations and asked ourselves what is the existing level of regulations that affect the pond, the surrounding shoreline and the upland area and will the DCPC accomplish these planning objectives. What we found is quite astonishing. Over 35 sets of existing land use

and environmental protection regulations are currently in effect protecting the pond, the shoreline, the barrier beach, the wetlands and the adjacent upland area. Not only that, there are already 3 existing DCPCs within the nominated district: the Katama Airport DCPC, the Coastal DCPC, and the Island Road District. This would be a 4th DCPC. He referred to appendix A and stated there were so many regulations we had to provide a summary list. These regulations include State, Federal, regional and local regulations, he listed several. We questioned why the statement was made that there are not enough existing regulations to protect the Great Pond and surrounding shorelines. Not only that, if you look at the existing DCPCs, we did some rough calculations, the total nominated district, which is the largest nominated DCPC in a number of years, came to about 6,600 acres of land and water. Out of that 6,600 acres approximately 4,200 acres are already protected by DCPCs, that is over 60%. I think this photograph exemplifies that. So we are saying to ourselves why do we need another DCPC and what is the real meat of the issue here. Basically we took a look at land use/development patterns and if you look at the photograph you will see distinct differences in land use patterns and development. The westerly section is essentially pristine undeveloped land, wooded uplands, shorelines, etc. whereas on the easterly section it is fairly well developed, he referred to a photo which depicted it. One of the things I think you need to take into consideration is the fact that you are proposing to designate an area that is so large and so diverse in terms of land use patterns and developments that developing one set of ubiquitous guidelines and regulations for this entire area will undoubtedly cause conflict. It will cause inconsistent applications and will be subject to challenge, and that is something very real that you have to look at. Our conclusions are that in fact what is at the root of the issue is nature, not development. I think the finger is being pointed in the wrong direction. It's not development, there is no development. Certainly with 35 sets of regulations and the 3 DCPCs the tools are there. He discussed the Coastal DCPC and the fact that this DCPC addresses essentially the same issues that DCPC addresses. One other point I want to make is that under the R-120 zoning this is the least dense zoning on the Island, it is 3 acre zoning. I know a lot of coastal ponds in New England, Rhode Island and Connecticut are going through very similar problems and he gave some examples. Mother Nature does not allow that inlet to stay open for more than a week, therefore the flushing capabilities, the resident time with water in the pond is not allowed to change, therefore the circulation patterns, nutrient levels and all the things that make a pond healthy are not as optimum as they could be for the Great Pond. The big issue after talking to many people in the Town and the Division of Marine Fisheries is that last year the pond was closed to shellfishing. I think that was the first year it was closed to shellfishing. Why? According to Buzzy Decarlo and folks down at the Division of Marine Fisheries, because there were high fecal coliform counts. We asked, why is that the case and they said it is a direct result of waterfowl. He then gave data on shellfish counts. So what we are trying to get at is yes, the pond needs help, we agree with the Board of Selectmen on that. Do we think a new DCPC is the answer? Quite frankly, we

don't think so. Development is not the issue. The Coastal DCPC regulations, the existing local regulations, the whole litany of regulations are tools that you already have to protect the pond. Another layer of regulations and guidelines will, in our opinion, only serve to delay solutions to the problem of the health of the pond. He showed a photograph of approximately 175 waterfowl on the pond, a picture of the breach, and stated in appendix B there is a brief analysis of waterfowl situation and we have also tried to give you some summary of what other states are doing to manage the wildlife and we think you ought to take this into consideration. I think that what we are seeing here is a trend, where the fecal coliform counts, the nutrient loading caused by these counts and the biological reactions caused by this fecal deposition is aging the pond far, far quicker than we would like to see. The fact that it is not open to tidal connection also is detrimental to the quality of the pond. The pond is losing its life quickly and will continue to do so unless some remedial action is taken very quickly. We submit that the new DCPC, additional regulations and guidelines is not the answer. The answer is a very sound wildlife management plan, a very sound water quality management plan, and to integrate these plans with the existing shellfish management plan. Essentially, that is the substance of our argument. We will present further written comments on our analysis of each of the districts. Mr. Natalie then answered questions from the Commissioners.

Mr. Jason, Commissioner, asked what the executive order mentioned is? Mr. Natalie responded I believe that is the Coastal Barrier Resource Act. That act protects coastal barriers and of course South Beach has been designated as a barrier beach by the State and is protected by Executive Order 181 by the State. It is also under the Coastal Barriers Resource Act by the Federal Government. These orders on both the Federal and State level directly prohibit development of the barrier beach.

Ms. Sibley, Commissioner, asked if Herring Creek Farm is a working farm? The response was yes. What is going on there? Mr. Natalie responded that we think we have one of the most intelligent farmers on the Island, Bill Smith. The farm is a bee and agricultural farm. Essentially, what is grown there is hay, oats, and winter rye. The thing that is impressive to me is his intelligent methods of farming. He uses non-acidulating fertilizers, non water soluble, non-polluting, non-nitrate loaded fertilizers. The way he rotates his crops, the way he tills his soil, and the way he performs erosion control are state of the art farming techniques. We think the farm is exemplary. As far as the cattle are concerned, there is manure control by concrete pads. The manure pile is constantly maintained. As far as grazing, manure it is left in the fields and when Mr. Smith is rotating his crops, it gets tilled into the soil. There are only about 100 head of cattle. I am sure that Mr. Smith would be happy to show you around and talk to you if you would like.

Ms. Colebrook, Commissioner, asked, you listed environmental protection acts you feel are sufficient in lieu of the proposed DCPC, How does FEMA help this? Mr. Natalie responded that as you know the

Federal Emergency Management Act restricts structures in the flood zones. It restricts the kind of structures, the location of structures, the elevations of structures. As we look at the FEMA maps for the DCPC we see that almost the entire area of the Coastal DCPC is regulated by FEMA. If you get insurance from FEMA, you are required to build your structure within their guidelines and a lot of times coastal municipalities adopt local by-laws that institute coastal flood hazard overlay districts. So it is another layer of regulations that work within the coastal margin. Ms. Colebrook stated that it is my understanding that it protects the developer by insuring at the taxpayer's expense. Mr. Natalie stated to the contrary, it protects the owner. If you live in a flood plain zone and you want insurance for your home, then it has to be constructed within the FEMA guidelines before they will issue insurance.

Ms. Bryant, Commissioner, asked how they see the Town and the MVC managing the swan populations? Mr. Natalie stated that this is a very delicate question. Mute swan and their flocks are increasing by about 15% per year. Rhode Island has got this down to 3-4% by shaking the eggs. You have a number of options, he discussed several. What you have to ask is which is worse, degrading our water quality and the fact that you might not be able to swim in Edgartown Great Pond 5 years from now because of high coliform counts or that you scare swans. Management Plans have to be evaluated for the specific situation and everyone has to look closely at the techniques available. There is direct quantitative evidence that shows this fecal deposition by the waterfowl is a real, real problem. There was further discussion about extending the hunting season and access to the pond for this purpose. There was also discussion about the pruning/trimming regulations for the area.

Mr. Morgan, Commissioner, asked Mr. Natalie to show where Herring Creek Pond joins South Beach? He did. Mr. Morgan continued by stating that what used to be there was a very wide channel between the beach and that point and it was maybe waist deep and it was filled in and there has always been a question of why it was filled in. The sluiceway came as a result of that being filled in and, unfortunately for the Town of Edgartown, that in turn killed Herring Creek. Were you aware of the channel? Mr. Natalie responded he was not aware of the historical background of the channel. Mr. Morgan stated that is wasn't very long ago, I was chairman of the Board of Health and we did a water study and there were very strong feelings about the pastures being so close to Slough Cove and the possibility of the fecal coliform count being very high. I point this out to offer a little bit of defense. All of the problems existing out there did not come from somewhere else on the pond and it could very well be that there are some problems associated with the farm itself and the bodies of water located there. I remember that area from 55 years ago and I have a more objective view. Concerning your statement about hunting, I'm not sure that human beings with guns would have the nerve to even approach that piece of property.

Ms. Bryant stated she understood that the sluiceway was also to control a septic in the vicinity? Mr. Natalie stated he couldn't understand where that septic would be. You have Board of Health regulations and DCPC regulations that govern separation. He stated that the sluiceway was clogged by natural causes. He went on to state that when the breech was opened, the water level went down. He also stated that he feels the breeching is a quick fix. It is not the answer. He referred to photos of the area and showed which photos were before and after the breech. The use of that sluiceway and breeching are management issues that I don't think will be addressed by another DCPC.

Mr. Ewing asked what obligations Herring Creek Farm has in regard to the management and maintenance of that sluiceway? Mr. Natalie stated he was not sure. Mr. Ewing then asked if he knew of any plans to dredge that sluiceway? The response was no. Mr. Ewing stated that as a member of the Edgartown Conservation Commission I would like to know if the lawns around the farm also use the same fertilizers as the farm? The response was yes. Mr. Ewing asked if this is mentioned in your documentation? Mr. Natalie responded no, but we would be happy to give you the details. Mr. Ewing responded that he would be very interested in receiving this information.

Mr. Young suggested that we also get a copy of the management plan for the farm.

Ms. Bryant asked where the information on Blue Claw Crab was received? Mr. Natalie stated that a lot of information came from Joe Sutton and we also talked to the Division of Marine Fisheries and the National Marine Fishery Service.

Mr. Fischer, Commissioner, asked why do you feel the proposed DCPC would threaten Herring Creek Farm? Mr. Natalie responded that we are not saying it would threaten Herring Creek Farm. What we are saying is enough is enough. Mr. Fischer then asked if you are concerned that more regulations might affect the livelihood of Herring Creek Farm? Mr. Natalie responded, no. We are saying that more regulations won't solve the problems existing in the pond.

Mr. Wey, Commissioner, asked what the long term plans of the Farm are? Mr. Natalie stated that he didn't know.

Mr. Ewing asked, don't you think the DCPC process could be the catalyst that pulls the regulations together? Mr. Natalie stated that really the route of the issue is the coastal margin and the ponds and the Coastal DCPC that has been in effect for over 10 years and is supposed to protect all the things you want to protect now. Why can't you use that as your tool. The guidelines and regulations could be modified, that is why they are there, instead of another layer of regulations, another year of moratorium, another year of debate on guidelines and regulations, back and forth. Is that effective?

Ms. Sibley stated that as far as I can see the only DCPC that actually

pertains to the problems you are discussing tonight is the Coastal DCPC. I don't believe that either the Island Road or Katama Airport DCPCs address themselves to these issues. Therefore isn't it what you are saying that the property outside the Coastal DCPC has no impact on the farm and is a direct function of wildlife habitat protection. Ms. Sibley again asked isn't it your opinion that the property outside the Coastal DCPC, and I am not only talking about the farm, could not have a significant impact on the ponds if developed? Mr. Natalie stated that we believe the 500' around the pond, 4,200 acres, is more than adequate.

Mr. Morgan stated that you are aware that there is always conflict between human use and land use especially in sensitive areas so you can't always trust the individuals to do the right thing. Previous incidents created a feeling by land use groups like this to say maybe we shouldn't trust what they said or what they did and let's not let that sort of thing happen again and that is why we need this district. Maybe you need to know that everyone is not all pure.

When there were no further questions for Mr. Natalie, the hearing officer called for other public testimony.

Mr. Bob Woodruff posed a rhetorical question, will the septic systems of the potential 72 homes at Jane's Cove, primary residences and guesthouses, have no effect on the pond? 72 houses on one small portion of the Great Pond. With all the regulations that have been pointed out to you by the previous speaker there still exists the potential for several hundred additional homes on Edgartown Great Pond. In response to what you have heard about waterfowl effects on the pond, I suggest that you have only heard part of the story. The other part of the story is the long term effects of human pollutants from lawns, houses and septic systems. He recounted a trip to the New Jersey shore and how he had gone there with the impression of the area as being one of awe and wondrous beauty. He stated he came away with a very different impression. I did visit some wonderful wildlife regions but I also saw massive exploitation of the natural resources, hundreds of houses built on the second dunes of barrier beaches on 10 foot stilts. We were told of one town where 30 houses were destroyed as a result of one Northeastern storm. These houses have been replaced, moved back slightly. This leads me to the questions, are the barrier beach protections adequate? I learned from this trip how extremely fortunate we are to have the mechanisms to preserve this Island. I suggest that part of the DCPC process should be to hold a dialogue between all interested parties to develop a long range plan for this area. I urge the Commission to approve this designation and give the priceless resources the protection that they need so the ponds can continue to provide the wealth of resources that they have in the past.

Ms. Colebrook asked about the 30 houses destroyed, what about the FEMA regulations? Mr. Woodruff responded that they were built on 8-10 foot pillings to bring them over the 100 ft. flood contour but Nature doesn't respond to FEMA regulations. Ms. Colebrook then asked if the houses had individual septic systems? The response was yes.

When there were no further questions, Mr. Ewing again called for further public testimony.

Mr. Stewart Johnson, HMM Associates also representing Herring Creek Farm, stated that he had come in with his mind set to be as cooperative and helpful as he could in these deliberations but he has listened carefully to the questions to Mr. Natalie and read a tone into those questions and now I must change my script. I am a little upset at this point because Herring Creek Farm is a property owner, and there is nothing wrong with that. Let us hope that property owners still have their station in our society. You may distrust them but that is no reason, foundation or basis to regulate their property rights. They are still sanctified. With your permission I have a question on your questions. Mr. Ewing interrupted Mr. Johnson and stated according to procedure that this is a period for public testimony and not for debate. Ms. Borer, Executive Director, stated that as outlined in the procedures, all testimony should be in the form of statements not questions.

Mr. Johnson stated that for the record at the onset you indicated that those members of the public who wished to give testimony could ask questions if they were directed to the chair. Mr. Ewing stated that if these questions are questions of clarification about a point concerning the Edgartown Great Pond DCPC. Mr. Johnson stated they would be, and asked the following question as an example: The staff has indicated that development along the water's edge would reduce and degenerate the area for wildlife species. Define the water's edge? Mr. Ewing stated that with all due respect, I understand what you want but this is a period for public testimony regarding this DCPC. If you have any statements to add to our better understanding of the area, we could accept that but we can't get into a debate at this time.

Mr. Johnson stated that he wants the record to show that there is resistance by the Commission to my attempts to get absolute clarity of the data which is going to be the basis on which this Commission makes a very important decision on the largest DCPC ever having been nominated for designation.

Mr. Young suggested that if there is a problem with Mr. Johnson submitting his questions in the strict format of the public hearing, he could submit those questions to the Edgartown Great Pond DCPC Committee who will consider them in their deliberations prior to the vote to designate. Mr. Ewing stated he could do that and he is sure that the Committee will seriously consider them.

Mr. Johnson stated that he believes that the record is absent in so far as Herring Creek Farm is concerned regarding the sighting or existence of any rare plant or animal species on the farm. I have not heard or seen any indication of the existence of deer, otter, raccoon, piping plover, etc. So far as I know there is no evidence introduced or data presented on specific instances where septic drainage has been observed contributing to the coliform content of Edgartown Great Pond. I believe there have been some suggestions that farming, whether it be in accordance with skillful techniques or non skillful techniques, may

very well be contributing to the problems in the pond particularly with respect to the cattle. I think that it is fair to say that that is less desirable from the pure standpoint of the economy than something else, i.e. residential development. I have heard no examples of how development done along the water's edge, whatever that may be, is degrading the 6,600 acre region for use by the species that the Board of Selectmen seek to protect. I have heard some evidence, but I am not clear so far as that evidence is concerned, about views, views from where, out in the middle of the pond, the beaches? I have just a broad, general idea about what you are talking about. I have heard nothing about compartmentalization of development or anything like that and how it affects wildlife diversity. In summary, I am crying out for the data. This is an important decision. It cannot go forward on the basis of thoughts, perceptions or probabilities. It is the responsibility of the Commission, in our view, to act in accordance with raw, hard facts. I now come to my last point. The Board of Selectmen (BOS) in the Town of Edgartown has nominated this district for designation and in doing so the BOS has raised concerns with 3-4 matters. Two have been the subject of Mr. Natalie's testimony, water quality and wildlife preservation. There are others which have not been mentioned to this point, one is navigability, the other is view sheds. Those concerns expressed by the members of the BOS are genuine and we do not suggest otherwise, but we are believers in allowing Nature to take its course. What I am leading up to is this: we ask and implore the Commission to be absolutely balanced, neutral. We asked that the Commission doesn't consider one person over another person, one group over another group, the Town over a private group, one income producing means of life over another income producing means of life. Absolutely even neutrality. The Commission is being asked to take a more prominent and active role as to the activities within the Town. The Town mentioned navigation as one issue and I want to relate this to the breeching. I believe that Joe Sutton was correct when he said there are many edges to this sword. In some instances breeching has been a consequence of nature, but what we are talking about is breeching as the result of human conduct. It plainly impacts the things that the Town of Edgartown is interested in. We asked that if the Commission is to become involved in this issue that they become fully involved in this issue, that they do not just designate and then hands off. What I am getting at is that we ask that any person who is going to take one step toward breeching the barrier beaches should have to face the same rigors of environmental review and approval as any private citizen.

When there were no questions for Mr. Johnson, Mr. Ewing called for further public testimony.

Mr. Benjamin Hall commended the Commission and the Board of Selectmen for this nomination and stated that he doesn't think he has ever heard such an extensive study being done by a member of the public, which is beneficial to all of us, without it being at the expense of the taxpayer's dollars. I consider this testimony to be valid and I hope it will be heard during deliberations. I would like to comment by stating that I am very distressed and concerned about the nomination

of such a large area of land based on political boundaries, essentially the R-120 district, as opposed to a more scientific oriented boundary which would be more appropriate to address the concerns that have been raised by all parties. I am concerned about the areas that aren't included that may have a tremendous effect on the ponds, i.e. the sewer plant, the Edgartown dump, and the other areas of the gradient beyond the West Tisbury Road which definitely have some flow into the ponds. The District includes areas that aren't even flowing into the ponds on the Edgartown side. I suggest that all great ponds should be considered and studied. I am concerned with the area above the 40' contour. When I represented a group before you a couple of years ago it has been determined that 15,000 sq. ft. per bedroom would have little effect on the pond. We should look at other factors as well when considering the boundaries, such as contour maps, distances from the pond, etc. Wildlife management might not be in the purview of the Commission. When considering the boundaries you should carve out exactly what you want protected and protect just that and not place additional burdens on those people who aren't really affecting the ponds.

When there was no further public testimony, Mr. Ewing moved to correspondence. There was none. He then asked if the Commissioners had any further comments or questions.

Ms. Bryant stated that there are a couple of things she thinks we will need to know in deliberating on this decision such as waterfowl limits and possible controls over them and cuts to the Ocean and how the decision to make these cuts is made. Mr. Ewing stated that these issues are being carefully considered by the DCPC Committee.

There was no further testimony or discussion so Mr. Ewing closed the public hearing at 10:27 p.m. with the record remaining open for one week.

Following a short recess, Mr. Early reconvened the Special Meeting of the Commission and proceeded with agenda items.

ITEM #1 - Chairman's Report

Mr. Early reported that the court had denied the Vineyard Conservation Society's Motion to Intervene in the suits brought by MVY Realty Trust against the MVC.

ITEM #2 - Old Business - There was none.

ITEM #3 - Minutes of April 20, 1989

It was motioned and seconded to approve the draft minutes as presented. There was no discussion. This motion passed with no opposition, 4 abstentions, Evans, Jason, Lee, Wey.

ITEM #4 - Legislative Liaison and Committee Reports

Mr. Morgan stated that he has discouraging news regarding the excise bill. It appears a new State-wide bill has been introduced and it appears that Dukes, Nantucket and Barnstable Counties will be excluded from this bill. Basically I would consider it to be a jail bail out bill that will last until 1992, a 3 year affair with no County funds. The legislature will decide who gets the funds and for what purpose. Even if our Counties are put back in the bill it won't benefit us a whole lot. I wouldn't be surprised if it is the start of a State takeover of the jails and registry of deeds.

Ms. Bryant asked about the Steamship Authority bills? A discussion followed about the possibilities and benefits of a 4, 5 and 7 member Board of Governors.

Mr. Ewing reported that in addition to the hearing tonight the Edgartown Ponds DCPC Committee had met Wednesday and approved an exemption for a development above the 40' contour. We will be meeting Wednesday at 5:00 p.m. and I urge all Committee members to attend.

Mr. Young, Chairman of the Land Use Planning Committee, reported that they would meet Monday, May 1st with the M.V. Regional Refuse District on the Solid Waste Transfer Station, and the Red Farm DRI. The Aquinnah Shop has been removed from the agenda and the Swan Neck DRI has been added.

Ms. Borer reported that the Comprehensive Planning and Advisory Committee would meet next Thursday at 5:30 p.m. to discuss the Environmental Quality Task Force's priorities, issues and policies and discuss action plans. We will be meeting every Thursday from then on.

ITEM #5 - Possible Vote - Written Decision, Marshall and Lewis DRI, Town of West Tisbury.

It was motioned and seconded to approve the draft decision as prepared. There was no discussion. This motion passed with a vote of 10 in favor, 0 opposed, and 3 abstentions, Evans, Wey, Early.

ITEM #5 - Possible Vote - Written Decision, Langmuir Subdivision DRI, Town of West Tisbury.

It was motioned and seconded to approve the draft decision as prepared. There was no discussion. This motion passed with a vote of 10 in favor, 0 opposed, 3 abstentions, Evans, Wey, Early.

ITEM #5 - Possible Vote - Written Decision, M.V. Hospital Parking Lot DRI, Town of Oak Bluffs.

It was motioned and seconded to approve the written decision as presented. There was discussion about the layout of condition 2 on page 15, it was decided that 2.a be moved to become part of the main paragraph and b-g subheadings relettered accordingly. The motion to approve with this layout correction failed on a vote of 6 in favor, 0 opposed, 7 abstentions, Colebrook, Evans, Medeiros, Scott, Wey, Early, Ewing.

There was discussion about who must abstain, and Ms. Borer read off the list of people not qualified to vote because of missing either the public hearing or the continuation of the public hearing.

It was motioned and seconded again to approve the written decision with the layout corrections mentioned above. This motion passed on a vote of 7 in favor, 0 opposed and 6 abstentions, Colebrook, Evans, Ewing, Medeiros, Scott, Early.

ITEM #6 - New Business

Mr. Morgan expressed displeasure with the conditions of this rented facility.

ITEM #7 - Correspondence

Ms. Borer read the following letter: TO: MVC, FROM: Steve Bernier, Owner/Operator, Cronig's State Road Market, DATED: April 24, 1989. It's my intention to bring to the Commission before the summer of 1989 my plans to enlarge the market by 4,100 square feet, install drainage, lighting, landscaping and repaving. The start up of this project is Sept./Oct. In the next few weeks I will be working with Com Electric to drop the power lines underground from State Road to the back of my property on a transformer pad. Three telephone poles will be removed. After the trenching has been accomplished, I would like to level and cover with dense mix the area known as Duffer's Delight. The dense mix was chosen for these reasons: 1. a surface hard enough to except carriage of groceries. 2. ease of removal and reuseability when formal construction starts in the fall. 3. economical alternative to asphalt. The recommendation is only temporary and non binding, pending your full review of my proposal. This recommendation will help serve my needs to provide more parking for the summer. This recommendation has been reviewed by Ken Barwick and the Tisbury Planning Board as of April 12, 1989. It is my understanding from their meeting that no permits are required and no violations are associated with our plans. Their comments concluded with a request of me to share with the Commission my intentions.

Ms. Bryant asked, he is asking for a parking lot and an addition? Ms. Borer stated this is just a temporary recommendation to make the lot more negotiable for carriages to serve the summer customers. He will come before the Commission later with the proposed addition of 4,100 feet.

Mr. Ewing asked Mr. Bernier, if it were paved, would you need a permit? Mr. Bernier responded that he didn't think so, however, they were unclear.

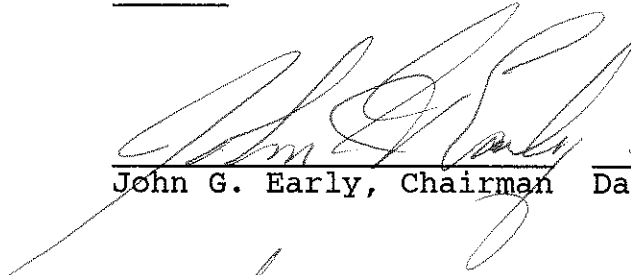
Ms. Colebrook asked if the dense mix is permeable? Mr. Bernier stated more than asphalt but less than dirt. There is currently no drainage plan but I have added a drainage management plan in my new proposal.

Ms. Borer stated that no decision is necessary from the Commission on this. It is just for informational purposes.

Mr. Early reminded Commissioners about the scheduled working session with Commission council, Choate, Hall & Stewart, on May 18th.

The meeting was adjourned at 11:10 p.m.

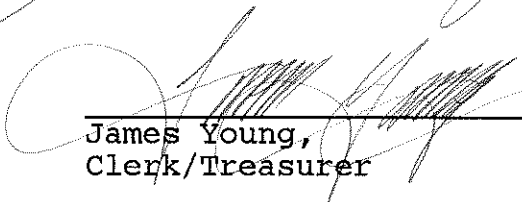
ATTEST



John G. Early, Chairman

5/4/89

Date



James Young,
Clerk/Treasurer

5/4/89

Date

Attendance:

Present: Bryant, Colebrook, Early, Evans, Ewing, Fischer, Jason*, Lee, Medeiros**, Morgan, Scott, Sibley, Wey, Young.

Absent: Eber, Filley, Delaney, McCavitt, Allen, Geller, Harney.

* Mr. Jason left at 10:50 p.m.

** Ms. Medeiros arrived at 8:10 p.m.